

# EXHIBIT B

**FW: FOIA REQUEST [Ack Letter - FOIA Request #BCFP-2018-0749-F]**

3 messages

**Adams, Danielle (CFPB)** <Danielle.Adams@cfpb.gov>  
To: "foia@democracyforward.org" <foia@democracyforward.org>  
Cc: FOIA <FOIA@cfpb.gov>

Wed, Sep 5, 2018 at 10:50 AM

Good Morning,

Please be advised that the BCFP FOIA Office has a backlog of pending FOIA requests. We are diligently working to process each request in the order in which it was received. Your patience is greatly appreciated.

This email is to inform you that on September 4, 2018, the Bureau of Consumer Financial Protection (BCFP) received your Freedom of Information Act (FOIA) request dated September 4, 2018. You requested:

1. Letters, memoranda, e-mails, and other communications setting forth or otherwise reflecting the opinion of the CFPB's Legal Division regarding the Bureau's authority to conduct supervisory activities regarding the Military Lending Act.

As it relates to your fee waiver request, your request will be held in abeyance pending the quantification of responsive records. The BCFP Interim FOIA regulations, set forth six factors to examine in determining whether the applicable legal standard for a fee waiver has been met: (1) Whether the subject of the requested records concerns "the operations or activities of the government;" (2) Whether the disclosure is "likely to contribute" to an understanding of government operations or activities; (3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor or a narrow segment of interested persons; (4) Whether the contribution to public understanding of government operations or activities will be "significant;" (5) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and (6) Whether the magnitude of any identified commercial interest to the requestor is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requestor. If any responsive records are located, we will consider these factors in our evaluation of your request for a fee waiver.

You have been determined to be a non-commercial requester and provisions of the FOIA allow the BCFP to recover part of the cost of complying with your request. You will be charged for the search (after the first two hours) and duplication (after the first 100 pages) costs in accordance with the BCFP Interim FOIA regulations as applicable to non-commercial requestors. The BCFP's FOIA Fee Schedule may be viewed at [www.consumerfinance.gov/foia-requests/fee-schedule/](http://www.consumerfinance.gov/foia-requests/fee-schedule/). **You did not indicate in your request a specific amount you were willing to pay. Therefore, in accordance with our regulations, your submission of a FOIA request is construed as an agreement to pay up to \$25.00.** You will be contacted in the event there are additional fees related to the processing of your request beyond this amount.

For inquiries concerning your request, please contact Danielle Duvall Adams at (202) 435-9145 and reference the FOIA request number above, or contact our FOIA Public Liaison at [FOIA@consumerfinance.gov](mailto:FOIA@consumerfinance.gov) or by phone at 1-855-444-FOIA (3642).

Thank you,

FOIA Public Liaison | FOIA Office

Office: (202) 435-9499 | Toll Free: (855) 444-3642

Bureau of Consumer Financial Protection

[consumerfinance.gov/foia](https://consumerfinance.gov/foia)

Confidentiality Notice: If you received this email by mistake, you should notify the sender of the mistake and delete the e-mail and any attachments. An inadvertent disclosure is not intended to waive any privileges.

**From:** FOIA Requests <[foia@democracyforward.org](mailto:foia@democracyforward.org)>

**Sent:** Tuesday, September 4, 2018 1:22 PM

**To:** FOIA <[FOIA@cfpb.gov](mailto:FOIA@cfpb.gov)>

**Subject:** FOIA REQUEST

Dear FOIA Officer,

Please see below and attached a FOIA request regarding

CFPB's view of its Military Lending Act authority. Please note that the attached PDF includes hyperlinks for additional context.

If you have any questions, please respond to this email.

Thank you!



September 4, 2018

**VIA Electronic Delivery**

CFPB, Attn: Chief FOIA Officer  
1700 G Street NW  
Washington, D.C. 20552  
(855) 444-3642  
[CFPB\\_FOIA@consumerfinance.gov](mailto:CFPB_FOIA@consumerfinance.gov)

**Re: Freedom of Information Act Request**

Dear Chief FOIA Officer:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. §§ 552 *et seq.* and Consumer Financial Protection Bureau (CFPB or Bureau) regulations at 12 C.F.R. Part 1070, Democracy Forward Foundation submits this request for records.

**Records Requested**

In an effort to understand, and explain to the public, CFPB's view of its Military Lending Act authority, Democracy Forward Foundation requests that CFPB produce the following within twenty (20) business days:

1. Letters, memoranda, e-mails, and other communications setting forth or otherwise reflecting the opinion of the CFPB's Legal Division regarding the Bureau's authority to conduct supervisory activities regarding the Military Lending Act.

The time period for this search is from July 21, 2011 to the date the search is completed.

Please search for records regardless of format, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical materials. This request includes, without limitation, all correspondence, letters, emails, text messages, calendar entries, facsimiles, telephone messages, voice mail messages, and transcripts, notes, minutes, or audio or video recordings of any meetings, telephone conversations, or discussions. In searching for responsive records, however, please exclude publicly available materials such as news clips that mention otherwise responsive search terms.

FOIA requires agencies to disclose information, with only limited exceptions for information that would harm an interest protected by a specific exemption or where disclosure is prohibited by law. 5 U.S.C. § 552(a)(8)(A). In the event that any of the requested documents cannot be disclosed in their entirety, we request that you release any material that can be reasonably segregated. See 5 U.S.C. § 552(b). Should any documents or portions of documents be withheld, we further request that you state with specificity the description of the document to be withheld and the legal and factual grounds for withholding any documents or portions thereof in an index, as required by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). Should any document include both disclosable and non-disclosable material that cannot reasonably be segregated, we request that you describe what proportion of the information in a document is non-disclosable and how that information is dispersed throughout the document. *Mead Data Cent., Inc. v. U.S. Dep't of Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

If requested records are located in, or originated in, another agency, department, office, installation or bureau, please refer this request or any relevant portion of this request to the appropriate entity.

To the extent that the records are readily reproducible in an electronic format, we would prefer to receive the records in that format. However, if certain records are not available in that format, we are willing to accept the best available copy of each such record.

Please respond to this request in writing within 20 working days as required under 5 U.S.C. § 552(a)(6)(A)(i). If all of the requested documents are not available within that time period, we request that you provide us with all requested documents or portions of documents that are available within that time period. If all relevant records are not produced within that time period, we are entitled to a waiver of fees for searching and duplicating records under 5 U.S.C. § 552(a)(4)(A)(viii)(I).

### **Fee Waiver or Reduction Requested**

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 12 C.F.R. § 1070.22, Democracy Forward Foundation requests a waiver of all fees associated with processing records for this request.

Democracy Forward Foundation is a "Representative of the news media" within the meaning of § 1070.22(b)(1)(iv). Democracy Forward Foundation "gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience" through its website, press releases, and social media outlets. *Id.*

Additionally, the subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of these operations by the public in a significant way. Moreover, the request is for non-commercial purposes.

Pursuant to 13 C.F.R. § 1070.22(e)(1)(iii)(A), disclosure of the requested records "is in the public interest because: (A) Furnishing the information is likely to contribute significantly to public understanding of the operations or activities of the government." This request pertains to "direct and clear" operations and activities of the CFPB--supervisory authority of the CFPB over MLA issues--and is "meaningfully informative about government operations or activities in order to "likely to contribute" to an increased public understanding of those operations or activities." *Id.* at §§ 107.22(e)(2)(A)(i)–(ii). Specifically, this request seeks to address outstanding questions about CFPB authority, such as whether MLA compliance may be included in CFPB's supervisory activity. The records would "contribute to the understanding of a reasonably broad audience of persons interested in the subject." *Id.* at § 107.22(e)(2)(A)(iii). News that the CFPB might halt supervisory activity for MLA compliance generated significant interest by the media. The release of yet publicly unseen and unavailable records would enhance "[t]he public's understanding of the subject in question, as compared to the level of public understanding existing prior to the disclosure." *Id.* at § 107.22(e)(2)(A)(iv). The requested records will shed light on the government's activities.

This request is "not primarily in the commercial interest of the requester." *Id.* at § 1070.22(e)(1)(iii)(B). Democracy Forward Foundation is a nonprofit organization organized under Internal Revenue Code § 501(c)(3). A core mission of Democracy Forward Foundation is to educate the public about improper government activity. Democracy Forward Foundation intends to use the materials gathered to educate the public through its website, press releases, and social media outlets. Because "[t]he CFPB ordinarily shall presume that where a news media requester has satisfied the public interest standard, the public interest will be the interest primarily served by disclosure to that requester," therefore the "public interest is greater in magnitude than that of any identified commercial interest in disclosure." *Id.* at 1070.22(e)(3)(ii).

Accordingly, Democracy Forward Foundation qualifies for a fee waiver.

### **Conclusion**

If you need clarification as to the scope of the request, have any questions, or foresee any obstacles to releasing fully the requested records within the 20-day period, please contact Nitin Shah as soon as possible at [foia@democracyforward.org](mailto:foia@democracyforward.org) or 202-448-9090.

We appreciate your assistance and look forward to your prompt response.

Sincerely,

/s/ Nitin Shah

Democracy Forward Foundation

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**FOIA Requests** <[foia@democracyforward.org](mailto:foia@democracyforward.org)>  
To: Cory Hansen <[coryhansen@democracyforward.org](mailto:coryhansen@democracyforward.org)>

Wed, Sep 5, 2018 at 11:28 AM

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**FOIA Requests** <[foia@democracyforward.org](mailto:foia@democracyforward.org)>  
To: Cory Hansen <[coryhansen@democracyforward.org](mailto:coryhansen@democracyforward.org)>, Nitin Shah <[nshah@democracyforward.org](mailto:nshah@democracyforward.org)>  
Cc: Batul Contractor <[bcontractor@democracyforward.org](mailto:bcontractor@democracyforward.org)>

Fri, Oct 12, 2018 at 11:08 AM

per Cory's request to see

----- Forwarded message -----

From: **Adams, Danielle (CFPB)** <[Danielle.Adams@cfpb.gov](mailto:Danielle.Adams@cfpb.gov)>  
Date: Wed, Sep 5, 2018 at 10:50 AM  
Subject: FW: FOIA REQUEST [Ack Letter - FOIA Request #BCFP-2018-0749-F]  
To: [foia@democracyforward.org](mailto:foia@democracyforward.org) <[foia@democracyforward.org](mailto:foia@democracyforward.org)>  
Cc: FOIA <[FOIA@cfpb.gov](mailto:FOIA@cfpb.gov)>

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